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REMARKS

Claims 1-8, 10-14 and 20-25 are presently pending in the application.

The Examiner has rejected claims 1-8 and 10-25 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner contends that the configuration of the foil in claim 1 "without a net" is a concept which does not appear to be disclosed in the present specification. Therefore, the Examiner concludes that the claims contain subject matter not described in the specification in such a way as to reasonably convey that the inventors had possession of the claimed invention at the time the application was filed. This rejection is respectfully but strenuously traversed for the reasons set forth below.

It is clear from the specification that the present invention is directed to a packaging wrap in the form of a new flat foil which is suitable for wrapping meats and pickled products, which foil is required to be placed between the meat or other product and a net to prevent the meat from adhering to the net during the cooking process (see page 1, lines 5-12 of the present specification). Further, in the Brief Summary of the Invention at page 2 of the specification, it is noted that the first three paragraphs describe this foil without any reference whatsoever to the net (page 2, lines 1-17). The same is true with the Detailed Description of the Invention, starting at the bottom of page 2, where the net is not even mentioned until the middle of page 4.

While it is conceded that the foil is intended for use with a net, it is also clear that the net is made separate from the net, and Applicant is entitled to claim the foil itself "without the net." That this is the case is even implicit from the Examiner's rejection of claim 1 in paragraph 5 of the Office Action dated June 4, 2003, where the Examiner questioned whether the net is being claimed as a structural element of the product or whether the wrap must merely be capable of use with a net. As a result of that rejection and question, Applicant clarified the claims in the Amendment of October 6, 2003 to claim the foil alone (claims 1-14, 24 and 25, "without a net"), the foil with a net (claim 19), and the foil with the net and a meat product (claims 20-23). Accordingly, the specification clearly describes the foil without a net in such a manner as to reasonably convey that the inventors had possession of the claimed invention at the time the application was filed. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In any event, this rejection is now moot, because Applicant has rewritten claim 19 in independent form by incorporating the subject matter of claim 19 into claim 1. Hence, all of the claims in the application, which depend directly or indirectly from claim 1 (previous claim 19), include both the foil and a separate net. By claiming this combination, it is submitted that the claims now avoid the possibility of inadvertently reading on the prior art, particularly JP '064.

Since this Amendment merely involves the rewriting of a dependent claim into independent form and clearly places the claims in better form for allowance or appeal, it is submitted that no new matter has been added and no new issues have been raised. Therefore, entry of this Amendment After Final is proper and respectfully requested.

The Examiner has rejected claims 1-7, 10-12, 21-23 and 25 under 35 U.S.C. § 102(b) as being anticipated by JP '064 for essentially the same reasons as the rejection of claims 1-7 and 9-12 in the previous Office Action. In addition, the Examiner has rejected claims 8 and 24 under 35 U.S.C. § 103(a) as being unpatentable over JP '064 in view of Kato for essentially the same reasons as the rejection of claim 8 in the previous Office Action. Further, the Examiner has rejected claims 13-14 under 35 U.S.C. § 103(a) as being unpatentable over JP '064 in view of Hammer for the same reasons as stated in the previous Office Action. In view of the incorporation of the subject matter of claim 19 into claim 1, all of these rejections are moot, and the references have already been discussed in response to the rejections in the previous Office Action. However, they are further discussed below to the extent necessary, in connection with the rejection of claim 19 (now claim 1) and claim 20.

The Examiner has rejected claims 19 and 20 under 35 U.S.C. § 103(a) as being unpatentable over JP '064 in view of U.S. Patent 1,924,903 of Birdseye. JP '064 has been thoroughly discussed by the Examiner and Applicant in the previous Office Action and response. In response to Applicant's argument that JP '064 requires a net (i.e., an integral net which is interwoven or integrated into the cloth of JP '064), the Examiner notes that JP '064 recites "strings, net or the like" (page 4, line 14), which means that strings can be used instead of a net (paragraph 9 at page 5 of the Office Action).

The Examiner acknowledges that JP '064 does not teach an exterior net (i.e., a separate net lying against a side of the foil which faces away from a meat product to be wrapped). However, the Examiner contends that Birdseye teaches a packaging wrap for meat comprising a

foil 12 and an exterior net 16. The Examiner concludes that it would have been obvious to incorporate the exterior net of Birdseye into the invention of JP '064, since both are directed to meat packaging wraps, since JP '064 already includes a foil 1 (Fig. 1), and since the net of Birdseye acts to reinforce the foil and prevent damage to the more fragile foil (page 1, lines 75-90). This rejection is respectfully but strenuously traversed for the reasons set forth in detail below.

In order to assist the Examiner in better understanding the differences between the packaging wrap of the presently claimed invention and the wrapping material of JP '064, Applicant submits herewith samples of the flat, non-tubular, thin-walled, flexible, non-collagen, fibrous foil of the present invention (Exhibit A); an elastic net of the type used to stretch over a meat product wrapped in the foil (Exhibit B); and a commercially available material according to JP '064 (Exhibit C). These Exhibits are being hand-delivered to the Examiner by a messenger of Applicant's representative, in order that the samples not be lost by the Patent Office during the process of scanning in the present Amendment.

As can be seen from an examination of the enclosed samples, the foil of the presently claimed invention is quite thin and flexible, similar to paper, so that it can be easily wrapped around an irregularly shaped meat product, overlapped at the edges as much as necessary depending on the size of the meat, and then held in place by stretching the separate net over a meat product wrapped in the foil, such that the net lies against a side of the foil facing away from the meat product. The anti-adhesive coating on at least one side of the foil facing a meat product to be wrapped prevents the meat product from binding with the packaging wrap as well as with the separate net. Note that in the enclosed sample of Exhibit C, the anti-adhesive coating is actually applied to both sides of the foil for the convenience of the user, so that he does not have to guess which side has the coating.

In contrast, as can be seen from Exhibit C, the wrapping material of JP '064 has a net, strings or the like incorporated into the cloth foil. This cloth with integrated cord or net is rather stiff and not particularly suitable for closely conforming to an irregularly shaped piece of meat. In the embodiment of Exhibit C, the wrapping material consists of two sheets of the cloth foil, each having an incorporated cord or net, with the two pieces of cloth being sewn together around

the edges to form a tubular casing. The ham, sausage or other meat can be filled into this casing (see page 7, sixth paragraph of English translation of JP '064).

The Examiner argues that it would have been obvious to one skilled in the art to incorporate the exterior net of Birdseye into the invention of JP '064, since both are directed to meat packaging wraps, since JP '064 already included a foil, and since the net of Birdseye acted to reinforce the foil and prevent damage to the more fragile foil. After examining Exhibits B and C enclosed herewith, it should be evident that such an incorporation of an exterior net (similar to Exhibit B) into the invention of JP '064 (Exhibit C) would make no sense, and one skilled in the art would have no reason or motivation to do so. Thus, the cloth or foil of JP '064 is already reinforced with an integral net or cord, and is quite stiff and strong, so that the cloth or foil is not fragile and does not need to be prevented from damage. Moreover, no exterior net is needed to hold the cloth or foil of JP '064 in place, because the cloth or foil of JP '064 is sewn together around the edges to form a casing (page 7, 6th paragraph of translation), instead of merely overlapped at the edges, as in Birdseye (page 2, lines 65-70) and the present invention (claim 23).

In sum, it can be easily seen from Exhibits B and C that incorporating the exterior net into the invention of JP '064 would be superfluous, awkward and serve no purpose. As noted at page 4 of the English translation of JP '064 under the "Operation" section, the cloth fibers and strings or net are interwoven with each other by mechanical means, so that they are integrated to each other at high strength. The strings or net are strength members so that the casing has a sufficiently high strength.

Still further, one skilled in the art would not look to the meat packaging of Birdseye to modify the wrapping material of JP '064, because the packaging of Birdseye is not intended for cooking purposes, as is the case with JP '064 and the present invention. Thus, the transparent wrapping 12 of Birdseye is a substantially moisture-proof material (page 1, lines 63-65) and the further preferred glaze 18 provides a moisture-proof shell (page 1, lines 95-98). Therefore, it is necessary that both the cellophane-like wrapping 12 and the glaze 18, together with the textile covering 16 and the trademark label 14, be removed before cooking. Otherwise, the packaging would explode due to expansion of the moisture and any air in the meat product. In contrast, both the packaging wrap of the present invention and the wrapping material of JP '064 are

permeable to gas, steam and/or smoke, as well as being suitable for a cooking process. In fact, a problem to which both the present invention and JP '064 are directed is the avoidance of strings or netting sticking to the meat product after cooking, which results in difficulty in removal and pulling of adhered meat away from the meat product.

Therefore, the combination of Birdseye with JP '064 is improper due to lack of motivation to combine and an unworkable combination, i.e., no expectation of success. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

The Kato and Hammer references have merely been cited for features of several of the dependent claims. They do not add to or make up for the deficiencies of the above-discussed combination of JP '064 and Birdseye. Therefore, any rejections based upon the further combination of these references are also improper and should be withdrawn.

Accordingly, in view of the above amendments and remarks, it is submitted that all of the claims in the application fully comply with the requirements of 35 U.S.C. § 112 and patentably distinguish over the prior art of record. Reconsideration and an early Notice of Allowance are respectfully solicited.

Respectfully submitted,

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(Date)

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Enclosures: Petition for Extension of Time (one month)
Exhibits A, B and C (product samples)

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